

Message Text

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SUBJECT: CITIZENS UTILITY SUIT AGAINST GOM ET AL

REF: A) MEXICO 3249, B) STATE 057794, C) STATE 038108

1. SUMMARY: EMBOFF ACCOMPANIED CITIZENS UTILITY PRESIDENT JACOBSON AND COMPANY'S PHOENIX ATTORNEY CARROLL TO APRIL 6 APPOINTMENT WITH FEDERAL ELECTRIC COMMISSION (CFE) DIRECTOR ARSENIO FARELL. NOGALES UTILITY PROBLEM WAS DISCUSSED IN DETAIL AND FARELL AGREED TO BEGIN NEGOTIATING SOLUTION WITH CITIZENS ON APRIL 19. END SUMMARY.

2. MESSRS JACOBSON AND CARROLL OPENED MEETING BY OUTLINING CITIZENS' POSITION. FARELL REPLIED THAT NOGALES UTILITY NOT YET PART OF CFE AND THEREFORE, HE COULD NOT DECIDE ISSUE. FARELL SAID THAT, ONCE NOGALES COMPANY INCORPORATED INTO CFE, HE WOULD STUDY PROBLEM. JACOBSON AND CARROLL RESPONDED BY NOTING THAT NOGALES UTILITY BREACHED CONTRACT AFTER CFE INSTALLED LINE TO BORDER AND BEGAN SUPPLYING POWER TO COMPANY. THEY MENTIONED U.S. FEDERAL COURT LITIGATION AND POSSIBLE REPERCUSSIONS. FARELL SAID HE WAS UNCONCERNED WITH OUTCOME OF U.S. LITIGATION AND THAT LEGAL PROCEEDINGS WOULD EVENTUALLY BECOME ISSUE BETWEEN THE TWO GOVERNMENTS AND RESULT IN AN IMPASSE. HE SUGGESTED CITIZENS HAD "OVERESTIMATED ITS LEGAL POSITION AND SHOULD SEEK ADVICE FROM EMBASSY, STATE DEPARTMENT OR SOMEONE MORE FAMILIAR WITH MEXICO" BEFORE
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PROCEEDING FURTHER WITH LITIGATION. FARELL EXPOUNDED ON THIS

ASPECT OF PROBLEM AT LENGTH EMPHASIZING HE WOULD NOT DISCUSS RESOLUTION OF NOGALES CASE WHILE LITIGATION BEFORE U.S. FEDERAL COURT. JACOBSON AND CARROLL REPLIED MILDLY THAT CITIZENS INTENDED TO PURSUE LITIGATION AND THAT CFE WAS NAMED AS A PARTY. AFTER MUCH DISCUSSION OF POSSIBLE CONSEQUENCES STEMMING FROM CITIZENS' LITIGATION, INCLUDING POSSIBLE PUBLIC OUTCRY IN MEXICO, FARELL FINALLY AGREED TO SEEK SOLUTION TO PROBLEM IN APRIL 19 NEGOTIATING MEETING WITH CITIZENS. IN HIS CLOSING REMARKS, FARELL REFERRED TO UNSPECIFIED "COLLUSION" ON PART OF CITIZENS AND NOGALES UTILITY AND SAID CITIZENS SHOULD BE PREPARED TO PRESENT CERTIFIED FIGURES ON PAYMENTS RECEIVED FROM NOGALES UTILITY, POWER SUPPLIED, ETC.

3. COMMENT: FARELL CHANGED HIS POSITION SEVERAL TIMES DURING MEETING AND CITIZENS UTILITY REPS BELIEVED HE SEARCHING FOR SIGNS THAT CITIZENS MIGHT SOFTEN STAND OR PERHAPS OFFER TO DROP LITIGATION. JACOBSON AND CARROLL INDICATED SATISFACTION WITH OUTCOME OF MEETING AND EXPRESSED APPRECIATION FOR DEPARTMENT'S ASSISTANCE AND EMBASSY'S DETAILED BRIEFINGS ON CFE.

4. NOTE: EMBOFF'S INITIAL CONTACT WITH JACOBSON AND CARROLL WAS COMPLETELY ACCIDENTAL. DESPITE DEPT'S AND EMBASSY'S COMMUNICATION ON THIS TOPIC (REFTELS), NEITHER HAD NAME OF EMBASSY CONTACT AND BOTH SAID THEY CAME TO MEXICO UNAWARE EMBASSY INTERESTED IN HELPING OR POSSESSED INFORMATION USEFUL TO THEM.
THOMPSON

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